

1) Amesbury Planning Board Meeting Minutes

2) August 30, 2021, at 7:00 PM

- 3) Chairman Pascal Rettig called the July 12, 2021, Planning Board meeting to order at 7:00 PM.
- 4) *A reminder that persons who would like to like to watch this meeting can do so on ACTV Channel 12, the ACTV website or their Facebook Page:
www.facebook.com/AmesburyCommunityTelevision*
- 5) *To submit a public comment, please submit a public comment form. There will be a public comment portion of each public hearing discussed tonight.*
- 6) *The Chairman notes that tonight's Planning Board meeting is being recorded by Amesbury Public Access Television; this legal step has been taken but does not act as the official record. The written meeting minutes by the Recording Secretary is the official record.*
- 7) **1. Roll Call**
- 8) **Attendance:** Lars Johannessen, Scott Kelley, Karen Solstad, Keith Ratner, and Pascal Rettig
- 9) **Absent:** Robert Laplante and David Frick
- 10) **Also:** Director of Planning Nipun Jain
- 11) **2. Public Hearings**
- 12) ***Bill 2021-105 – An Ordinance to Establish Short Term Rentals in Residential Units***
- 13) Nipun Jain read the notice and gave an overview of the order's two parts. Part 1, an amendment to establish short term rentals as a land use in the zoning code, is before the Board. Part 2, a licensing issuance procedure for certain properties, is not before the Board. It covers proposed requirements for establishing and using short term rentals. The bill's working committee is still going through aspects of the order and working with legal counsel. The Ordinance Committee has made some recommendations. The original ordinance will undergo significant changes.
- 14) Councilor Pam Gilday, 25 Monroe St., bill co-sponsor, said there is an amended version of the licensing bill on the City Council website. Zoning Bill 105, which is before the Planning Board, is short. The Licensing Bill 193 is lengthy. A summary statement describe why the City is doing this. Definition of terms come from MA GL 64.G. The working group includes

Councilor Scott Mandeville, Councilor Anthony Rinaldi, Angela Cleveland, Director, Office of Economic and Community Development, Nipun Jain, Director of Planning & Development, Ernest Creveling, Director, Inspectional Services, Leonard Johnson, Ordinance Committee member, and Councilor Adrienne Lennon.

- 15) Councilor Pam Gilday proposed pushing the bill to the next Planning Board meeting which will be after the 9/14/21 City Council meeting to give the working committee time to go through the recommendations of the Ordinance Committee. The bill includes a residency requirement. Some of the main points being modified (lost audio) are things that are challenging to enforce. Details are still in play and tonight is not the ideal time to do a deep dive.
- 16) Lars Johannessen said there seem to be 4 different ordinances prior to this all dealing with short term rentals: 066, 090, 091, 093, and now 105.
- 17) Councilor Pam Gilday said Bill 093 is the licensing that is still in play. It defines what needs to be in place for a homeowner to get permission to do short term rental. Bills 090 and 091 have already been passed but cannot be enforced until Bill 093 is passed. These 2 bills say we want to take advantage of the optional tax revenue from short term rentals, similar to how our ordinances incorporated taking advantage of the state's optional excise tax and hotel tax. The public registry of the Division of Local Services on the MA.gov website asks whether a community has a local room tax rate (Amesbury's is 6%), a short term rental community impact fee (which Amesbury accepted in Bills 090 and 091), and the two types of short term rentals – professionally managed option and short term rental included in 2-and 3-family homes. Although Amesbury accepted both of those options, Councilor Gilday hopes the way the bill shakes out is to only accept short term rentals in single family homes, and not in 2-and 3-family homes. On page 2 of Bill 105 it says, "a) Single-family home, b) single-family home attached or detached apartment legally rentable to non-family members, and c) a duplex where the owner is in residence and owns both properties. There is no multi-family listed here presently.
- 18) Lars Johannessen said he doesn't see a definition of short term rental, how long it lasts, and when it becomes a regular rental.
- 19) Councilor Pam Gilday read the definition on page 1, "The term short term rental is defined in MA GL 64G...." The working committee is looking at whether they want the state definition or something more specific. Part of that discussion is around bed and breakfasts, which are not well accounted for.
- 20) Lars Johannessen said the definition doesn't say anything about when a short term rental ends.
- 21) Councilor Pam Gilday would take that back to the working committee.

- 22) Director Nipun Jain said the term of occupation can be determined in the licensing process. The definition is still an open question. Another question concerns whether the use should be by right. While it's a relief to a subject property, a relief can only be granted through a special permit and that would be a change to Section 5 and 6 of the zoning code. The working committee will flesh out those issues.
- 23) Lars Johannessen said page 2 belongs under licensing. Director Jain said the committee is working on identifying which items are standards and which are criteria. (lost audio). You can't have a 1-bedroom structure and do a short term rental. There will be minimum requirements for a property to qualify under land use and that has nothing to do with licensing. Certain things, like number of days, is a licensing issue and should not be part of the amendment before the Board. (lost audio)
- 24) Karen Solstad is confused by the MA GL. Chapter 64G defines short term rentals as apartments and condominiums, but this restricts it to just single family homes or a duplex where the owner owns both units. If her daughter wants to work in Norway for the summer and needs to do a short term rental in her condo, it would be forbidden as written. Councilor Gilday agreed.
- 25) Karen Solstad said that scenario privileges homeowners. Councilor Gilday said the working committee is re-defining short term rental for Amesbury because the state's definition is overly broad. Amesbury's definition will be stricter.
- 26) Councilor Pam Gilday's said if you share a wall with someone who is paying taxes, she doesn't want you to be able to do a short term rental, because short term rentals can be highly disruptive and that's not fair. At least 2 condo associations in town do not allow short term rentals in their condo documents for that reason. She wants to maintain neighborhood peace. She also does not want long term rentals taken off the market in favor of short term rentals because they make more money. We already have a shortage of rental properties. The working group may decide not to do it that way, but this explains why it is written so restrictively.
- 27) Karen Solstad asked why noise issues aren't in the licensing. How would the Planning Board have a hand in that? Director Jain explained that the City wants to make sure that the use is allowed. The question is whether it should be allowed by right or allowed through a mechanism that lets the neighborhood know a short term rental is being considered. When the licensing happens, concerns that are not addressed in the approval process come up, but a short term rental does not come before the Planning Board as written. The consideration under discussion is whether it should be by right, like it is now, so that all you have to do is go to the Licensing Board and apply for a license so that issues that are not part of the approval process can be addressed by the neighbors.

- 28) Councilor Pam Gilday said the licensing involves a health inspection and other inspectional services. There is liability for the owner and the municipality. Director Jain said licensing is not a public hearing process.
- 29) Karen Solstad asked how the neighbors are notified if it's not a public process. Director Jain said the neighbors might not know about it right now, as it stands. If you want the neighbors to know there would have to be a hearing which only happens when you request relief.
- 30) Karen Solstad said if she wants to rent a unit she owns, today, there are no inspectional services. Director Jain said there would be inspectional service for short term rentals per ordinance 093 and 105, but not for long term rentals.
- 31) Pascal Rettig said it's unclear where the cut off is. Is a summer sublet allowed or is that a short term rental? Specifically clarifying the threshold would help. Director Jain agreed.
- 32) Lars Johannessen said, right now, he can rent out his house for 5-6 months or for the summer by right if he's not there, and it's not a short term rental.
- 33) Karen Solstad said there is no maximum time. Director Jain said there is only a minimum time.
- 34) Councilor Pam Gilday said she hears they need to firm up the language on what constitutes a short term rental. The bill does say, "A short term rental unit cannot be sub-leased to a third party, nor can a sub-lease of a long term rental be used as a short term rental." We need to say how we determine if that's even happening and delineate short and long term rental. We need to delineate the amount of time.
- 35) Pascal Rettig said the summary is clear that the goal is to prevent residential units from being used like hotels, but the cut-off has to be identified. Councilor Gilday agreed.
- 36) Karen Solstad asked if she has to apply for a short term rental license if she wanted to advertise a summer sublet. Councilor Gilday said yes, we want to allow you to do that if you are not sharing a wall with a neighbor. That's one of the reasons we said you could do it 4 times a year if you want to. A short term rental unit is not allowed in most condos, so it won't be hard to find the right language to craft the language properly. Existing language is readily available to draw from that will help us find answer the questions the Board is raising tonight.
- 37) Lars Johannessen asked if he would have to get a short term rental license if he was doing a house swap and pay 3% of nothing because it's a swap. Councilor Gilday said that is how it is written today. You would register with the state. Director Jain said that is not the intent of the short term rentals. We were talking about 5-15 days, but the discussion was inconclusive

- 38) Pascal Rettig asked if it can be considered a rental if no money changes hands. Director Jain said that would not be a rental. There will have to be a list of exemptions. Councilor Gilday agreed. She would bring that up to the working committee. The Newburyport short term rental amendment proposal has been in process for a long time because it's complicated to cover everything. Her understanding is the communities of Plum Island and Salisbury Beach are carved out because of their seasonal nature. She will reference those pieces of legislation.
- 39) Keith Ratner gave the situation of renting out a bedroom in his house for a roommate. The issue clarifying what is *not* a short term rental. Councilor Gilday said that's a good idea. There are 5-bedroom houses with 5 disparate people all the time. That is not a short term rental, and we need to somehow account for that as an exemption.
- 40) Karen Solstad said there's a shortage of rental units already. Removing any units for permanent short term rentals should be avoided. There are different internet platforms to research.
- 41) Pascal Rettig said if it's listed on AirBnB or VRBO, it's a short term rental. Councilor Gilday agreed.
- 42) Karen Solstad said there are other platforms, and new ones will emerge.
- 43) Nipun Jain said there are many issues to discuss. He suggests the meeting be continued. Councilor Gilday said the committee can take it up again after December as long as they don't vote no on it. If they vote no, it can't be taken up again for another 6 months after December 31. She requested September 28th. The Ordinance Committee is advisory and will need to take it up as well.
- 44) A motion to continue Bill 2021-105 – An Ordinance to Establish Short Term Rentals in Residential Units to the 9/28/21 meeting is made by Lars Johannessen and seconded by Keith Ratner.**
- 45) All members present vote in favor. Motion Approved.**
- 46) 3. Administrative**
- 47) Point Shore Drive – Lot #3 Front Yard Setback Waiver***
- 48) Nipun Jain said the request is similar to what the Board approved for other houses in the Point Shore Drive subdivision. The required setback is 25 ft. The subcommittee thought it would be an advantage, given the unique layout of lot #3, if the setback was 15 ft so the house could be sited in with the garage not facing the roadway or the primary house. The front elevation is more appealing and there are better rear and side yards that are out of the

buffers. The unpaved portion of the right of way will be paved and a split rail fence will clearly define the edge of the adjoining property from the right of way.

- 49) Glen Saba, 7 Kelly Lane, Atkinson, NH, concurred and distributed copies of the plan. Director Jain said he thought they discussed not having the chimney bump out.
- 50) Glen Saba asked if that was a firm request. The bump out works with the layout. Director Jain said we usually have the exhaust concealed by a trellis.
- 51) Lars Johannessen said the Planning Board had not used those bump outs at all, and frowned on them. Director Jain said other houses in the subdivision do not have bump outs.
- 52) Glen Saba said he tried to bring the fireplace into the room and needs about 10" out back. The bump out allows built-ins and is one of the reasons for it.
- 53) Karen Solstad asked if the bump out could come down lower for aesthetic purposes. Mr. Saba agreed to bring it into the foundation, which he normally does that. Director Jain requested shrubs at the base and a trellis on the bump out, so it disappears as part of the house.
- 54) A motion to approve the waiver request for Point Shore Drive, Lot #3 front yard setback, from 25 ft to 15 ft as shown on the approved subdivision plan, is made by Keith Ratner and seconded Karen Solstad.**
- 55) All members present vote in favor. Motion approved.**
- 56) Glen Saba asked about the side setback. Director Jain said each part of a property line that abuts a right of way is considered a front yard.
- 57) Nipun Jain said Mr. Saba is also seeking to establish an erosion control bond for Lot #3 for \$3,494.50 for the disturbance of this development.
- 58) A motion to establish an erosion control bond for Point Shore Drive, Lot #3, in the amount of \$3,494.50, is made by Karen Solstad and seconded Lars Johannessen.**
- 59) All members present vote in favor. Motion approved.**

60) 4. Adjournment

- 61) A motion to close the August 30, 2021, meeting is made by Keith Ratner and seconded by Scott Kelley.**

62) All members present vote in favor. Motion Approved.

63) The meeting adjourned at 7:53 PM

64) Respectfully submitted -- Linda Guthrie, Recording Secretary